THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, the 4th day of July,2007

W.P.No.10484 of 2002

Between:-

Sri Kodandarama Fishermen Coop. Society Ltd., No.207, Chandredu, Rangampet Mandal, East Godavari District, rep. by its President Karri Pentayya … Petitioner

and

The State of A.P., reptd. by its Secretary, Animal Husbandry, Dairy Development & Fisheries Dept., Secretariat, Hyderabad and others … Respondents

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ORAL ORDER:

This Writ Petition is filed seeking a Mandamus to declare the action of the 4th respondent in demanding rentals under Notice No.2158/E.2001, dated 29-12-2001 and letter No.2158/E.2000, dated 28-1-2002 as arbitrary, illegal and contrary to the provisions of G.O.Ms.No.7, Animal Husbandry, Dairy Development and Fisheries (Fish.II) Department, dated 17-2-2000 and G.O.Ms.No.70, Animal Husbandry, Dairy Development and Fisheries (Fish.II) Department, dated 16-10-2000.

The only grievance of the petitioner-society is that it is liable to pay rentals as per G.O.Ms.No.7, dated 17-2-2000 and G.O.Ms.No.70, dated 16-10-2000, whereas the respondents are demanding enhanced rentals contrary to the guidelines laid down in the said two Governmental Orders.

While admitting the Writ Petition, this Court on 13-6-2002 passed an interim order not to take any coercive steps in pursuance of the impugned Notice dated 29-12-2001 and letter dated 28-1-2002 of the 4th respondent, until further orders. In view of the same, the impugned proceedings were not given effect to.

Respondent No.4 filed a detailed counter affidavit denying the allegations made by the petitioner. It is asserted that G.O.Ms.No.7, dated 17-2-2000 exempting rentals for 1409 Fasli relates to tanks located in drought affected Mandals in the State and it

provides that the society has to obtain a tank dry certificate from the authority concerned for claiming exemption of rentals. Further, G.O.Ms.No.70, dated 16-10-2000 provides for fixation of rentals for a period of three years at a time from 1410 Fasli onwards at the rate of 10% increase in every year, except for the drought declared Mandals in the State. Even though Rangampeta Mandal was declared as a drought affected Mandal, the petitioner has not obtained the Tank Dry Certificate from the authority concerned for exemption of rentals in respect of Nalla Tank and paid the rentals at Rs.20,000/- per annum from Fasli 1409 to Fasli 1411. Therefore, it must be deemed that the petitioner-society has accepted to pay rentals fixed by the Department as the Nalla Tank is having sufficient water to an extent of 40 Hectares and the rental fixed by the Department is reasonable.

There is no controversy as to the provisions under G.O.Ms.No.7, dated 17-2-2000 and G.O.Ms.No.70, dated 16-10-2000. Whether Rangampeta Mandal is declared as a drought affected Mandal and whether a tank dry certificate has been obtained by the petitioner from the authority concerned declaring that the Tank dried during the drought period and as such, the provisions of the said G.Os are applicable, are all the facts, which need some evidence. The authorities have to consider those aspects before taking any decision.

Under the above circumstances, without expressing any opinion on merits of the case, respondents are directed to consider the matter afresh keeping in view the guidelines laid down in G.O.Ms.No.7, dated 17-2-2000 and G.O.Ms.No.70, dated 16-10-2000 and pass appropriate orders, within a period of four months from the date of receipt of a copy of this order and communicate the same to the petitioner. Till such time, no coercive steps shall be taken against the petitioner.

With the above directions, the Writ Petition is disposed of. No

order as to costs.

04-7-2007

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